

REPORT OF EXAMINATION  
OF THE

COMMERCE TITLE  
INSURANCE COMPANY

AS OF  
DECEMBER 31, 2005

Participating State  
and Zone:

California

Filed January 22, 2007

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Los Angeles, California  
September 29, 2006

Honorable Alfred W. Gross  
Chairman of the NAIC Financial  
Condition Subcommittee  
Commissioner of Insurance  
Virginia Bureau of Insurance  
Richmond, Virginia

Honorable Gary L. Smith  
Secretary, Zone IV-Western  
Director of Insurance  
Department of Insurance, State of Idaho  
Boise, Idaho

Honorable John Garamendi  
Insurance Commissioner  
California Department of Insurance  
Sacramento, California

Dear Chairman, Director and Commissioner:

Pursuant to your instructions, an examination was made of the

#### COMMERCE TITLE INSURANCE COMPANY

(hereinafter also referred to as the Company) at its statutory home office located at 4175 E. La Palma Avenue, Suite 200, Anaheim, California 92807.

#### SCOPE OF EXAMINATION

The previous examination of the Company was made as of December 31, 2002. This examination covers the period from January 1, 2003 through December 31, 2005. The examination was made pursuant to the National Association of Insurance Commissioners' plan of examination. The examination included a review of the Company's practices and procedures, an examination of management records, tests and analyses of detailed transactions within the examination period, and an evaluation of the assets and a determination of liabilities as of December 31, 2005, as deemed necessary under the circumstances.

Concurrently, an examination was made of Commerce Title Company, an affiliated underwritten title company, as of December 31, 2005.

In addition to those items specifically commented upon in this report, other phases of the Company's operations were reviewed including the following areas that require no further comment: corporate records; fidelity bonds and other insurance; officers', employees' and agents' welfare and pension plans; growth of company; business in force by states; loss experience; and sales and advertising.

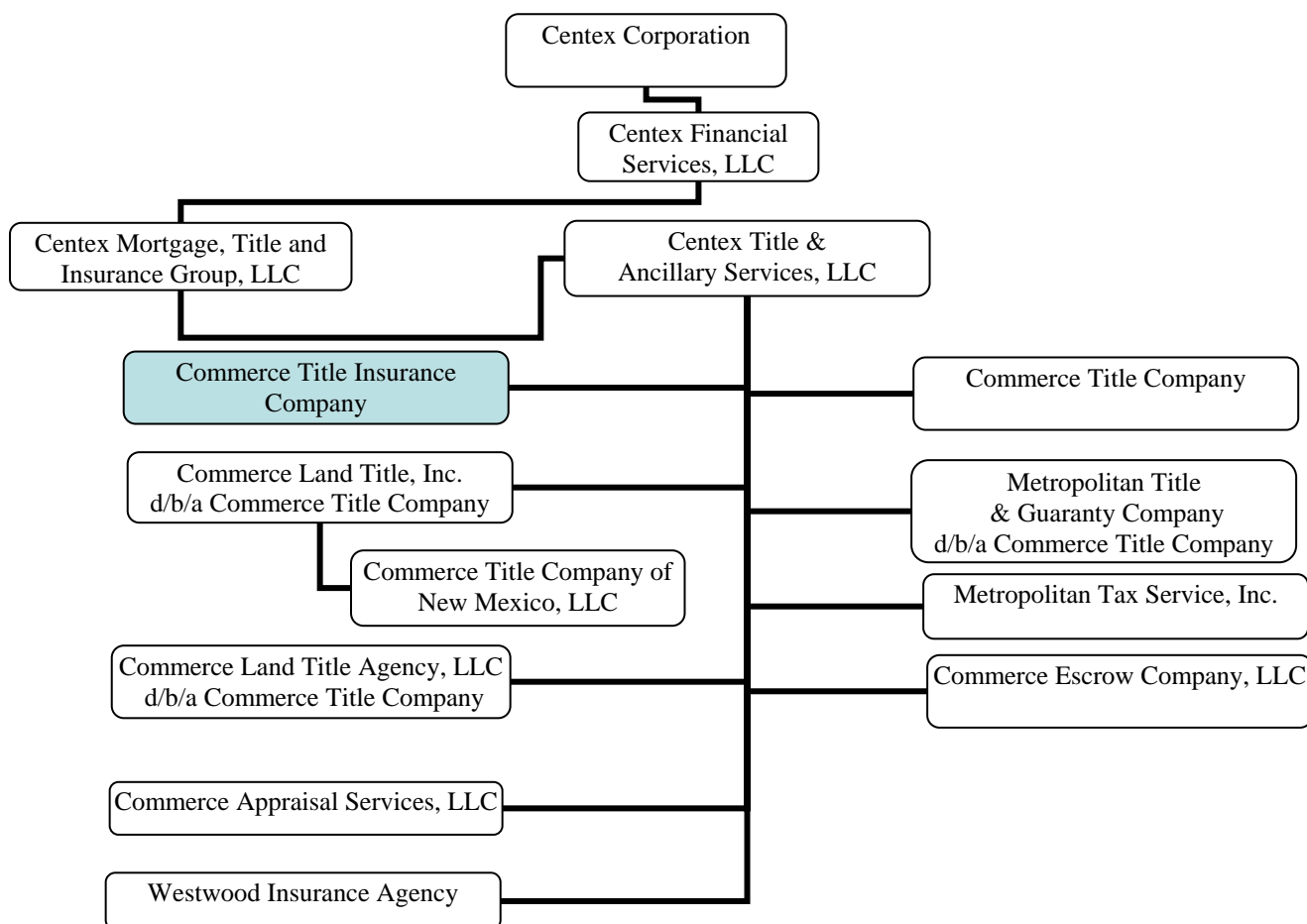
### COMPANY HISTORY

Effective December 29, 1999, Centex Title & Ancillary Services, Inc. (CTAS), a Nevada corporation, acquired 100% of the issued and outstanding shares of common stock of the Company. On September 30, 2005, CTAS converted to a limited liability company and changed its name to Centex Title & Ancillary Services, LLC. Upon the effective date of the conversion, the resulting limited liability company continued the existence of the original corporation formed under the Nevada Revised Statutes, and the outstanding shares of common stock in the original corporation were converted to membership interests in the limited liability company. The conversion did not result in any change in control of the Company.

On September 30, 2004 and October 31, 2005, the Company paid a cash dividend of \$1.7 million and \$1.5 million to CTAS, respectively.

### MANAGEMENT AND CONTROL

At December 31, 2005, the Company's outstanding common stock is 100% owned by Centex Title & Ancillary Services, LLC, which is a wholly-owned subsidiary of Centex Corporation (Centex). Centex is a publicly traded diversified holding company with various subsidiaries. Through its subsidiaries, Centex provides home construction, general building contracting, retail mortgage lending services, title and insurance products and services. The following is an abridged organizational chart depicting the relationship of the Company in the holding company system:



Management of the Company is under the direct control of a three-member board of directors and its officers. The directors and officers serving on December 31, 2005 are as follows:

### Directors

#### Name and Residence

Timothy M. Bartosh  
Dallas, Texas

Leldon E. Echols  
Dallas, Texas

John J. Flynn

#### Principal Business Affiliation

President and Chief Executive Officer  
Centex Title & Ancillary Services, LLC  
and Commerce Title Insurance Company

Executive Vice President and  
Chief Financial Officer  
Centex Corporation

Executive Vice President,

Name and Residence

Dallas, Texas

Principal Business AffiliationCentex Title & Ancillary Services, LLC  
and Commerce Title Insurance CompanyPrincipal OfficersNameTitle

Timothy M. Bartosh

President and Chief Executive Officer

Brian J. Woram

Secretary

Gail M. Peck

Treasurer

John J. Flynn

Executive Vice President

Jefferson E. Howeth

Senior Vice President and General Counsel

David A. Priestley

Senior Vice President and  
Chief Financial Officer

Jeanne Flynn-Martin

Senior Vice President and Regulatory Counsel

Management Agreements

Underwriting Agreement: The Company maintains an Underwriting Agreement with Commerce Title Company (CTC), an affiliated underwritten title company, for the purpose of issuing title insurance policies in the following counties of California: Alameda, Contra Costa, El Dorado, Fresno, Imperial, Kern, Kings, Los Angeles, Madera, Marin, Mendocino, Merced, Monterey, Napa, Nevada, Orange, Placer, Riverside, Sacramento, San Bernardino, San Benito, San Diego, San Francisco, San Joaquin, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, San Luis Obispo, Solano, Sonoma, Stanislaus, Sutter, Tulare, Yolo, Yuba, and Ventura; and in the following states: Arizona, Hawaii, Idaho, Oregon and Washington.

Service Agreement: CTC provides administrative support services to the Company in counties in California in which CTC is licensed. CTC is compensated based on time allocations, expense sharing, and other appropriate methods of measurement on unidentifiable costs and expenses, and actual costs on identifiable costs and expenses payable within thirty 30 days.

Service and Investment Management Agreement: The Company's parent, Centex Title & Ancillary Services, LLC. (CTAS) provides certain investment management services and facilities and

administrative services and is compensated based on the Company's pro-rata share of CTAS's overhead costs.

**Tax Liability Allocation and Indemnification Agreement:** The Company and its affiliates have an agreement with Centex Corporation (Centex) to file federal income taxes on a consolidated basis. The Company pays Centex an amount equal to a separate return tax liability including installments of estimated tax payments. If the Company is entitled to a tax credit or incurs a net operating loss during a taxable period, Centex applies the credit to the Company.

#### Holding Company Transactions

CTAS provided services as described in the Service and Investment Management Agreement to the Company; however, there has been no inter-company expense allocation or charges made to the Company by CTAS. Pursuant to a request made by the California Department of Insurance the parties involved confirmed in writing that there were no actual charges or amounts owed by the Company to CTAS. Furthermore, it is the Company's intention to undertake a review of the agreement for any required revisions or the necessity of the agreement. If the Company decides to continue the agreement for the year 2006 and forward, it is recommended that the Company and CTAS allocate the various expenses based on the services rendered in accordance with the agreement and to be in compliance with the California Insurance Code Section 1215.5(a)(3).

#### TERRITORY AND PLAN OF OPERATION

The Company is licensed to conduct title insurance business in the states of Arizona, California, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Texas, Virginia and West Virginia. As of the examination date, business written in the states of California, Texas and Florida accounted for 80 percent of the business written.

In California, the Company writes the majority of its business through its affiliated underwritten title company, Commerce Title Company (CTC). CTC is presently licensed in the following California counties: Alameda, Contra Costa, El Dorado, Fresno, Imperial, Kern, Kings, Los Angeles, Madera, Marin, Merced, Mendocino, Monterey, Napa, Nevada, Orange, Placer, Riverside, Sacramento, San Bernardino, San Benito, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, San Diego, San Francisco, San Mateo, Solano, Sonoma, Stanislaus, Sutter, Tulare, Yolo, Yuba and Ventura. The Company is primarily liable on all title insurance policies that CTC issues.

## REINSURANCE

### Assumed

The Company has no reinsurance assumed.

### Ceded

The following is the general description of the Company's ceded reinsurance program as of December 31, 2005:

The Company maintains a reinsurance agreement with Old Republic Title Insurance Company (ORTIC) with a limit of \$25 million. The Company retains \$500,000 as its primary risk, and cedes secondary risk to ORTIC. This treaty covered all policies issued by the Company in the states of Arizona, California, Colorado, Florida, Indiana, Kentucky, Nevada, Ohio, Pennsylvania, South Carolina, and Virginia. A second reinsurance treaty with ORTIC covers certain policies issued in the states of New Mexico and Texas. Under the terms of this policy, the Company retains primary liability of \$5,000 and ORTIC has secondary liability over \$5,000 up to \$5 million.

The Company has a reinsurance agreement with First American Title Insurance Company (FATIC) for all policies issued by the Company, excluding policies issued which insure grantees of Centex Homes and simultaneously issued loan policies. The Company retains the primary loss risk of \$5,000 on each policy, and cedes to FATIC secondary loss risk on each reinsured policy above



\$5,000. No policy is issued without the prior written consent of the reinsurer wherein the interest insured is in excess of \$5 million.

The Company has a facultative reinsurance agreement with FATIC. The Company and FATIC both retain 50% from the first dollar of loss, inclusive of costs, attorney's fees and expenses, on a pro rata basis. The agreement is intended to be secondary to the ORTIC agreement, which provides that the Company retain \$500,000 as its primary risk, and cede secondary risk to ORTIC. It covers policies of the Company issued through its agent, Commerce Title Company from 1995 through and including 2002.

### FINANCIAL STATEMENTS

The financial statements prepared for this examination report include:

Statement of Financial Condition as of December 31, 2005

Operations and Investment Exhibit for the Year Ended December 31, 2005

Reconciliation of Surplus as Regards Policyholders  
from December 31, 2002 through December 31, 2005

Statement of Financial Condition  
as of December 31, 2005

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>	<u>Notes</u>
Bonds	\$ 3,703,750	\$	\$ 3,703,750	
Mortgage loans on real estate:				
First liens	258,376		258,376	
Cash and short-term investments	12,308,894		12,308,894	
Title plants	729,726		729,726	
Investment income due and accrued	15,175		15,175	
Premiums and considerations:				
Uncollected premiums and agents' balances in course of collection	640,046		640,046	
Net deferred tax asset	674,245	578,159	96,086	
Electronic data processing equipment	178,542		178,542	(1)
Furniture and equipment	6,266	6,266	0	
Receivables from parent, subsidiaries and affiliates	678,479		678,479	
Aggregate write-ins for other than invested assets	<u>957,341</u>	<u>957,341</u>	<u>0</u>	
Total assets	<u>\$ 20,150,840</u>	<u>\$ 1,541,766</u>	<u>\$ 18,609,074</u>	
<u>Liabilities, Surplus and Other Funds</u>				
Known claims reserve			\$ 180,900	(2)
Statutory premium reserve			9,728,637	
Other expenses			410,021	
Taxes, licenses and fees			141,611	
Current federal and foreign income taxes			<u>1,337,549</u>	
Total liabilities			11,798,718	
Common capital stock		\$ 1,500,000		
Gross paid-in and contributed surplus		4,631,662		
Unassigned funds (surplus)		<u>678,694</u>		
Surplus as regards policyholders			<u>6,810,356</u>	
Total liabilities, surplus and other funds			<u>\$ 18,609,074</u>	

Operations and Investment Exhibit  
for the Year Ended December 31, 2005

Statement of Income

Operating Income

Title insurance premiums earned		\$ 52,487,263
Deductions:		
Losses and loss adjustment expenses incurred	\$ 590,939	
Operating expenses incurred	<u>48,521,592</u>	
Total operating deductions		<u>49,112,531</u>
Net operating gain		3,374,732

Investment Income

Net investment income earned	<u>\$ 301,651</u>	
Net investment gain		<u>301,651</u>
Net income before federal income taxes		3,676,383
Federal income taxes incurred		<u>1,337,549</u>
Net income		<u>\$ 2,338,834</u>

Capital and Surplus Account

Surplus as regards policyholders, December 31, 2004		\$ 6,571,059
Net income	\$ 2,338,834	
Net unrealized capital losses	(814,294)	
Change in net deferred income tax	10,946	
Change in nonadmitted assets	203,811	
Dividends to stockholders	<u>(1,500,000)</u>	
Change in surplus as regards policyholders		<u>239,297</u>
Surplus as regards policyholders, December 31, 2005		<u>\$ 6,810,356</u>

Reconciliation of Surplus as Regards Policyholders  
from December 31, 2002 through December 31, 2005

Surplus as regards policyholders, December 31, 2002, per Examination	\$ 8,275,696
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	Gain in Surplus	Loss in Surplus
Net income	\$ 4,747,832	\$
Net unrealized capital losses		2,196,577
Change in net deferred income tax	45,127	
Change in nonadmitted assets		243,028
Change in statutory premium reserve		618,694
Dividends to stockholders		3,200,000
 Totals	 \$ 4,792,959	 \$ 6,258,299

Net decrease in surplus as regards policyholders	<u>1,465,340</u>
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Surplus as regards policyholders, December 31, 2005, per Examination	<u>\$ 6,810,356</u>
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## COMMENTS ON FINANCIAL STATEMENT ITEMS

### (1) Electronic Data Processing Equipment

The above captioned account included software as an admitted asset and is not in compliance with California Insurance Code Section (CICS) 1194.95. Due to the immateriality of the account balance, no examination adjustment was made. It is however recommended that the Company comply with CICS 1194.95.

### (2) Known Claims Reserve

The Company's known claims reserve was estimated by the Company's consulting actuary. Based on the review by a Casualty Actuary from the California Department of Insurance, the Company's known claim reserve at year end of 2005 were determined to be reasonable and has been accepted for purposes of this examination.

## SUMMARY OF COMMENTS AND RECOMMENDATIONS

### Current Report of Examination

Management and Controls – Holding Company Transactions (Page 5): If the Company decides to continue the agreement for the year 2006 and forward, it is recommended that the Company and CTAS allocate the various expenses based on the services rendered in accordance with the agreement and to be in compliance with the California Insurance Code Section 1215.5(a)(3).

Comments on Financial Statement – Electronic Data Processing Equipment (Page 12): It is recommended that the Company comply with CICS 1194.95.

### Previous Report of Examination

Management and Control – Conflict of Interest Statements (Page 6): It was recommended that the questionnaires signed by the director and principal officers for all the years under examination be made available and the results be reported to the board of directors and recorded in the minutes of the meeting. The Company implemented this recommendation.

Corporate Records (Page 6): It was recommended that the Company give notification to the board of directors and officers of receipt of Report of Examination pursuant to California Insurance Code (CIC) Section 735. The Company complied with CIC Section 735.

## ACKNOWLEDGEMENT

The courtesy and cooperation extended by the Company's officers and employees during the course of this examination are hereby acknowledged.

Respectfully submitted,

/S/

Irene Song, CFE  
Senior Insurance Examiner (Specialist)  
Examiner-In-Charge  
Department of Insurance  
State of California